GIG ECONOMY UPDATES

During 2018, there will be many high-profile tribunals and cases heard surrounding employment rights for those working in the Gig Economy. Following on from January's article, below are updates in relation to the high profile cases of Uber, and Deliveroo, as well as the new cases that have occurred since January this year.

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UBER

On December 20th 2017, following a challenge brought by a group of taxi drivers in Barcelona, the European Court of Justice (ECJ) ruled that Uber is officially a transport company. Uber had argued that it was a computer services business not a transport company. During the ruling, the ECJ acknowledged that Uber provides an intermediation service that is integral to the service through connecting by means of a smartphone app. However the ECJ found the main component of Uber is the transport service they provide and therefore Uber must be classed 'as a service in the field of transport' not as an information society service. As a result of the ECJ ruling, Uber will now be required to accept stricter regulation and licensing within the EU as a taxi service.

Last November after the Employment Appeal Tribunal, (EAT) upheld the decision by the Employment Tribunal (ET) that two of its drivers are workers for the purposes of the Employment Rights Act 1996 (ERA). Uber began on the appeal of this decision. Uber initially thought it could go straight to the Supreme Court bypassing the Court of Appeals. However, this was rejected and
The Court of Appeals will now hear this case later this year.

On 8th February this year, Uber won a major legal battle in France on over the employment status of one of it drivers when the French tribunal court ruled in its favour. The case centred on a driver, Florian Menard, who had argued he was not self-employed and his service contract with Uber should be reclassified as an employment contract. The tribunal said that Mr Menard was free to drive his hours and choose or refuse his trips. The French tribunal ruled that Uber was not the driver's employer and that Uber was in the business of intermediation and not that of a transport services. This is a different ruling to the UK courts and contradictory to what the European Court of Justice (ECJ) ruled in December 2017.

DELIVEROO

Following on from November's case where the Central Arbitration Committee (CAC) rejected the application by the Independent Workers Union of Great Britain (IWGB) concluding that the Deliveroo riders were self-employed as opposed to employed and not entitled to collective bargain rights. In March 2018 the IWGB on behalf of the Deliveroo riders have asked for a judicial review of the case.

THE DOCTOR'S LABORATORY

In March the Independent Workers' of Great Britain (IWGB) won collective bargaining rights on behalf of couriers at NHS provider The Doctor's Laboratory. This win comes after last year where on behalf of the Independent Workers Union of Great Britain (IWGB) secured worker status (previously they were classified an independent contractors) for couriers at The Doctor's Laboratory. As a result of achieving collective bargaining, the couriers (who distribute blood samples and pathology samples to the NHS laboratories.) will now be able to negotiate with their employer. Additionally the IWUGB has launched a £1 million holiday pay claim against TDL on behalf of the couriers.

PIMLICO PLUMBERS

In February, the highest profile case to date took place in the highest court. The Supreme Court heard the Smith v Pimlico Plumbers case in London. This appeal followed a Court of Appeals ruling last February where the Court of Appeals upheld the decision by the EAT and ET that Mr Smith, a former Pimlico plumber was a worker and therefore entitled to basic worker rights such as holiday pay and the national minimum wage. Over two days in February, the Supreme Court reconsidered the

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question if Mr Smith was a 'worker' or whether he was in 'employment'. The decision made will be revealed in March and could have serious implications for the other employment status cases currently being heard.

GRUBHUB IN THE US

In February this year the first gig economy case regarding employee versus independent contract status took place in the US. A federal judge in San Francisco ruled that Raef Lawson, a former driver for the food delivery business Grubhub was classified correctly as an independent contractor. Mr Lawson had argued that he was an employee. The judge ruled the independent contractor decision because Grubhub lacked necessary control over its drivers. Since February, Mr Lawson has filed an appeal with the 9th Circuit Court of Appeals. The appeal will be heard later this year or early next year.

WHAT IS UP NEXT?

The UK government announced on the 7th February (following on from the Taylor Review on working conditions published last July) that they would review employment rights to improve conditions for millions of workers, including those workers in the gig economy. This report will be released in June. The EU also announced that they would be reviewing legislation as well. In terms of ongoing cases, the Pimlico Plumbers decision is to be announced soon and Uber and Deliveroo still have other cases that are going through various stages. It is hoped that with some legislation and the final stage cases there will be more clarity in relation to employment law and holiday status for the many individuals who work in the Gig Economy.

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